

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

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| IN RE JOHNSON & JOHNSON DERIVATIVE LITIGATION | Civil Action No. 10-2033 (FLW) |
| IN RE JOHNSON & JOHNSON FCPA SHAREHOLDER DERIVATIVE LITIGATION | Civil Action No. 11-2511 (FLW) |
| COPELAND v. PRINCE, <i>et al.</i> | Civil Action No. 11-4993 (FLW) |

DECLARATION OF JOHN MCGAHREN

JOHN MCGAHREN, ESQ., of full age, hereby declares as follows:

1. I am an attorney at law of the State of New Jersey, and am the Managing Partner of the New Jersey office of the law firm of Patton Boggs LLP (“Patton Boggs”) located in Newark, New Jersey. Patton Boggs’ New Jersey office employs approximately 65 attorneys. I am fully familiar with the facts contained herein based upon my personal knowledge.

2. I am submitting this Declaration at the request of James E. Cecchi of the firm of Carella, Byrne, Cecchi, Olstein, Brody & Agnello, P.C. (“Carella Byrne”), co-lead counsel for Plaintiffs in the above-captioned actions (the “Actions”).

3. I was admitted to the practice of law in New Jersey in 1990. In addition to being licensed to practice law in the State of New Jersey since 1990, I am licensed to practice law in the District of Columbia, and the States of New York and West Virginia. I have also been admitted to the following federal courts: District of New Jersey, Southern and Eastern Districts of New York, Northern and Southern Districts of West Virginia, the U.S. Supreme Court, the U.S. Courts of Appeals for the First, Second, Third and Federal Circuits, and the U.S. Court of Federal Claims.

4. I joined Patton Boggs' New Jersey office as Managing Partner in 2006. From 1999 to 2006, I was a partner in the New Jersey office of Latham & Watkins LLP, located in Newark, New Jersey. Before that, I was a partner in the New Jersey office of Pitney Hardin Kipp & Szuch, located in Florham Park, New Jersey. I have practiced law continuously in New Jersey since 1990.

5. Approximately 90% of my practice involves complex environmental, products liability, mass tort, government contract and commercial civil litigation. I have litigated and tried complex civil cases in New Jersey throughout my career. By way of example, I have represented clients in a wide variety of matters, including hazardous waste litigation, products liability, toxic tort, and government contract claims.

6. Through my practice, I have gained knowledge of attorney billing rates for both defense and plaintiffs' counsel in matters comprising sophisticated and complicated civil litigation.

7. Some of my representative matters include representing a major liability insurer in a CERCLA cost recovery and contribution action in Central District of California against the United States for cleanup costs associated with perchlorate, TCE, military ordnance and other contamination at a former ordnance and rocket manufacturing facility in California. Cleanup costs at the site are projected at around \$300 million; serving as lead defense counsel for the WTC Captive Insurance Company, a not-for-profit corporation formed by the City of New York to provide insurance coverage for the city and more than 150 contractors in multi-district litigation in the Southern District of New York arising from response actions taken at the World Trade Center after the 9/11 terrorist attacks; representing a chemical manufacturer regarding Superfund/FUSRAP (Formerly Utilized Sites Remedial Action Program) site in New Jersey

where thorium had been produced. Retained to enforce a Cooperative Agreement between the company and the U.S. Department of Energy (DOE) and negotiated a settlement with the United States for the FUSRAP radiological cleanup, with total estimated costs in excess of \$500 million; brought successful suit in District of New Jersey against the United States for cost recovery for historic contamination from United States wartime production of munitions dating from WWII and the Korean War. Negotiated settlement on eve of trial requiring the United States to pay over half of past and future response costs. Also negotiated administrative consent orders with NJDEP covering ordnance cleanup; served as lead trial counsel in successful declaratory judgment suit on behalf of manufacturing company in District of New Jersey against current property owner for contractual indemnity for all potential liability and costs, including natural resource damages associated with EPA and the New Jersey Department of Environmental Protection (NJDEP) Passaic River initiatives. Argued successfully in the Third Circuit which affirmed trial court decision; and obtained liability judgments against the Commissioner of NJDEP and the United States for groundwater contamination caused by government war production and NJDEP removal activities at a property in Somerville, New Jersey, after a bench trial in the District of New Jersey. This matter is currently on appeal before the Third Circuit.

8. I am also a certified federal mediator in the District of New Jersey Civil Mediation Program and have served the Court in this capacity on a pro bono basis since 1991. I have acted as a federal mediator in a trade agreement breach and trademark infringement matter – the first joint mediation of its kind involving mediators appointed by the District of New Jersey and the Third Circuit, and I have also served as a court-designated mediator in numerous other complex commercial and environmental disputes. In this capacity, I am familiar with attorney billing rates and ranges for legal services in this District.

9. I have also served as a court-designated mediator for the New Jersey Supreme Court Civil Mediation Program in hundreds of civil litigation matters. In this capacity, I have knowledge of attorney billing rates and ranges for legal services in this State.

10. I have also served on American Arbitration Association panels of arbitrators and mediators in numerous matters involving construction, commercial, and environmental disputes.

11. Over the past 22 years of practice in New Jersey, I have come to know the firm of Carella Byrne as a law firm which, among other things, represents clients in complex civil litigation, including toxic tort, environmental, class actions, securities class actions and shareholder derivative litigation. For example, when I was at Latham & Watkins, I represented co-defendants in a multi-party litigation with John Agnello and Melissa Flax of Carella Byrne in a series of environmental and toxic tort litigations brought by municipalities and property owners for contamination of a drinking water aquifer and properties arising from alleged releases of trichloroethylene from a facility in Montvale, New Jersey. These matters involved multiple plaintiffs and defendants, and complex causation, legal theories and damages issues. More recently, I have represented a party in connection with a municipal landfill in Massachusetts, which is contaminated with radiological and chemical constituents, where Mr. Agnello and Ms. Flax represent one of the alleged waste generators, and where the past and future cleanup costs will exceed \$100 million.

12. I am familiar with the reputation of James E. Cecchi, Esq. ("Cecchi") of Carella Byrne, as an attorney who represents clients in complex civil litigation, venued in the federal and state courts of New Jersey.

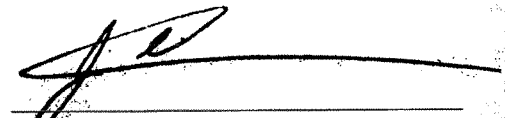
13. I have reviewed the hourly rates sought by Plaintiffs' Counsel for services rendered to Plaintiffs by partners and associates. Those rates are set forth in Exhibit A hereto.

14. I have read all of Plaintiffs' Counsels' firm resumes, describing the skill, experience and reputation of Plaintiffs' Counsel (ECF 192-4 through 192-9).

15. In my experience as a practitioner in this District and nationwide, and as a federal and state court mediator, the current hourly rates being sought by Plaintiffs' Counsel for the services rendered to Plaintiffs in the above-referenced Actions are in line with the prevailing hourly rates currently being charged by New Jersey attorneys with comparable skill, experience, and reputation for legal services rendered in complex civil litigation in the federal and state courts in New Jersey.

16. By way of example of comparable billing rates, my current standard hourly rate is \$835. Patton Boggs currently charges hourly rates when representing clients in complex civil litigation in the federal and state courts of New Jersey which are comparable to and in some cases higher than those reflected on Exhibit A for attorneys with comparable experience.

I hereby declare under penalty of perjury that the foregoing is true and correct.



JOHN MCGAHREN

Dated: October 15, 2012

EXHIBIT A

ATTORNEY RATES

Carella, Byrne, Cecchi, Olstein, Brody & Agnello, P.C.

| <u>Name</u> | <u>Position</u> | <u>Years of Practice</u> | <u>Rate</u> |
|----------------------|------------------------|---------------------------------|--------------------|
| James E. Cecchi | Senior Partner | 23 | \$750 |
| Lindsey H. Taylor | Partner | 26 | \$600 |
| Caroline F. Bartlett | Partner | 8 | \$600 |
| David Gilfillan | Partner | 19 | \$525 |
| Donald A. Ecklund | Associate | 11 | \$495 |
| Zach Bower | Associate | 8 | \$495 |
| Audra Petrolle | Associate | 3 | \$475 |

Bernstein Litowitz Berger & Grossman, LLP

| <u>Name</u> | <u>Position</u> | <u>Years of Practice</u> | <u>Rate</u> |
|---------------------|------------------------|---------------------------------|--------------------|
| Max Berger | Senior Partner | 40 | \$975 |
| Gerald Silk | Senior Partner | 16 | \$800 |
| Mark Lebovitch | Partner | 12 | \$700 |
| Amy Miller | Senior Counsel | 10 | \$575 |
| Jeroen van Kwawegen | Senior Associate | 8 | \$500 |
| John Mills | Senior Associate | 9 | \$550 |
| Jeremy Friedman | Associate | 4 | \$440 |
| Laurence Hasson | Associate | 5 | \$450 |
| Thomas Keevins | Staff Attorney | 9 | \$395 |
| Matt Mulligan | Staff Attorney | 7 | \$375 |
| Spencer Oster | Staff Attorney | 8 | \$375 |

Abraham, Fruchter & Twersky, LLP

| <u>Name</u> | <u>Position</u> | <u>Years of Practice</u> | <u>Rate</u> |
|-----------------------|------------------------|---------------------------------|--------------------|
| Jeffrey S. Abraham | Partner | 25 | \$795 |
| Jack G. Fruchter | Partner | 20 | \$725 |
| Mitchell M.Z. Twersky | Partner | 20 | \$725 |
| Ximena R. Skovron | Associate | 8 | \$495 |
| Philip T. Taylor | Associate | 6 | \$425 |
| Arthur Chen | Associate | 7 | \$395 |
| Kevin Rozzi | Associate | 9 | \$350 |

Robbins Geller Rudman & Dowd LLP

| <u>Name</u> | <u>Position</u> | <u>Years of Practice</u> | <u>Rate</u> |
|----------------------|------------------------|---------------------------------|--------------------|
| Darren J. Robbins | Partner | 18 | \$790 |
| Travis E. Downs, III | Partner | 22 | \$725 |
| David W. Mitchell | Partner | 14 | \$630 |
| Darryl Alvarado | Associate | 5 | \$380 |

Kantrowitz, Goldhamer & Graifman, P.C.

| <u>Name</u> | <u>Position</u> | <u>Years of Practice</u> | <u>Rate</u> |
|-------------------------|------------------------|---------------------------------|--------------------|
| Gary S. Graifman | Partner | 31 | \$735 |
| Michael L. Braunstein | Senior Associate | 15 | \$595 |
| Reginald H. Rutishauser | Senior Associate | 22 | \$595 |
| William T. Schiffman | Associate | 37 | \$575 |

Morris and Morris LLC

| <u>Name</u> | <u>Position</u> | <u>Years of Practice</u> | <u>Rate</u> |
|--------------------|------------------------|---------------------------------|--------------------|
| Karen Morris | Managing Partner | 28 | \$765 |
| Patrick Morris | Partner | 28 | \$685 |
| R. Michael Lindsey | Associate | 23 | \$625 |